

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

COCP No.1701 of 2001

Date of decision: September 1, 2006.

Prit Pal Singh

...Petitioner(s)

v.

Bakshi Ram & Ors.

...Respondent(s)

Present: Shri Naresh Katyal, Advocate for the petitioner.

Shri Ajnish Raj Takkar, Advocate for respondent No.1.

Shri Gaurav Chopra, Advocate for respondents No.2 to 4.

Surya Kant, J. (Oral)

The petitioner filed CWP No.13343 of 2001 in which, while issuing notice of motion, a Division Bench of this Court directed that there shall be an “interim order in the same terms” as in CWP No.2077 of 2001. In CWP No.2077 of 2001, a Division Bench, vide order dated 14.2.2001 (Annexure P-1), had stayed dispossession of the petitioner. Consequently, by virtue of the interim order dated 3.9.2001, referred to above, the petitioner's dispossession also stood stayed from the subject land.

The afore-mentioned interim order was passed by this Court in writ proceedings wherein the action of the Improvement Trust, to include the subject property in its development scheme, though earlier the same was exempted, was under challenge.

Alleging that despite the ad-interim order dated 3.9.2001, whereby his dispossession was stayed, the respondents forcibly entered the premises and bulldozed a part of the building as is depicted in the

photographs, Annexures P-3 to P-5, the petitioner has filed this contempt petition.

In response to the show cause, the respondents have put in appearance and an affidavit dated 1.9.2002 has been filed by the third respondent, in which a specific plea has been taken that much before passing of the interim order dated 3.9.2001, possession of the subject property had been taken by the Improvement Trust on 30.8.2001. It is, thus, contended that the interim order was obtained by the petitioner by concealing the material facts.

Meanwhile, and during the pendency of this petition, the petitioner's main case along with bunch of other cases came up for final hearing and vide judgment dated 25.2.2002 a Division Bench of this Court quashed the orders whereby the subject property was sought to be included by the Trust within the Scheme. It is not denied that the judgment dated 25.2.2002, referred to above, has attained finality and in compliance thereto, the petitioner has already been delivered possession of the subject property.

It is, however, contended by Learned Counsel for the petitioner that since the demolition of a part of the property has caused financial loss to the petitioner, stern action be taken against the respondents.

On the other hand, Learned Counsel for the respondents vehemently contends that possession of the subject property had been taken by them in a lawful manner on 30th August, 2001. However, after obtaining the exparte interim order dated 3rd September, 2001, the petitioner, in order to take the possession back forcibly, got constructed a boundary-wall which was got demolished by the authorities.

After hearing Learned Counsel for the parties and having

regard to the seriously disputed questions of fact and the contentious issues, noticed above, though it would have been desirable to seek a fact finding report from the learned civil court and thereafter to dispose of these proceedings. However, in view of the subsequent events, namely, acceptance of the petitioner's claim by this court vide judgment dated 25th February, 2002 and consequential delivery of possession of the subject property to him by the respondent-authorities, but at the same time, after taking judicial notice of what is depicted in the photographs Annexures P3 to P5 wherein, apart from the demolition of a newly constructed boundary wall, there appears to be some damage caused to one or two rooms also, and taking into consideration all the attending circumstances, I deem it appropriate to dispose of this petition with a direction to the Improvement Trust, Amritsar to pay a sum of Rs.15,000/- to the petitioner towards cost of the damage caused to a part of the property within two months from today. With these directions, this contempt petition is disposed of.

Rule discharged.

September 1, 2006.
kadyan

[**Surya Kant**]
Judge